

**DEPARTMENT OF EDUCATION****Carol M. White Physical Education Program**

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215F.

**AGENCY:** Office of Safe and Drug-Free Schools, Department of Education.

**ACTION:** Notice of proposed priorities, requirements, and definitions.

**SUMMARY:** The Assistant Deputy Secretary for Safe and Drug-Free Schools proposes priorities, requirements, and definitions for the Carol M. White Physical Education Program (PEP). The Assistant Deputy Secretary may use one or more of these priorities, requirements, and definitions for competitions in fiscal year (FY) 2010 and later years. We take this action to align PEP projects more closely with best practices and research related to improving children's health and fitness. Under the proposed requirements, new projects would be required to address a variety of mechanisms and approaches for improving students' physical activity and eating habits and improve students' ability to meet their State physical education standards.

**DATES:** We must receive your comments on or before April 15, 2010.

**ADDRESSES:** Address all comments about this notice to Carlette Huntley, U.S. Department of Education, 550 12th Street, SW., Room 10071, Washington, DC 20202-6450. If you prefer to send your comments through e-mail, use the following address: [carlette.huntley@ed.gov](mailto:carlette.huntley@ed.gov).

**FOR FURTHER INFORMATION CONTACT:** Carlette Huntley.

*Telephone:* (202) 245-7871 or by e-mail: [carlette.huntley@ed.gov](mailto:carlette.huntley@ed.gov).

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:**

*Invitation to Comment:* We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, requirements, and definitions, we urge you to identify clearly the specific proposed priority, requirement, or definition that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed priorities, requirements, and definitions. Please let us know of any further ways we could reduce

potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 10096, 550 12th Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

*Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record:* On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

*Purpose of Program:* The purpose of PEP is to initiate, expand, and improve physical education for students in grades K-12.

*Program Authority:* 20 U.S.C. 7261-7261f.

*Applicable Program Regulations:* 34 CFR part 299.

**SUPPLEMENTARY INFORMATION:**

*General:* We propose a new direction to strengthen and enhance PEP and to support a broader, strategic vision for (a) encouraging the development of lifelong healthy habits, and (b) improving nutrition and physical education programming and policies in schools and communities to prevent obesity and to decrease the number of children who are overweight or obese. This new direction will focus on increasing opportunities for students to be physically active and practice good nutritional habits in and out of school. PEP's new direction would apply lessons learned and best practices based on research and program evaluation that were not available during PEP's earlier years. With this new direction, we seek to provide funding to districts and community-based organizations in communities that plan to implement comprehensive, integrated physical activity and nutrition programs and policies that are reinforced in and by the community. By promoting sequential, research-based physical education and instruction in healthy eating and implementing policies to encourage physical activity and healthy eating, we expect PEP projects to result in students developing important skills, knowledge, and behaviors that will translate into healthy habits that will carry into

adulthood. Research demonstrates that active, healthy youth are more likely to become active, healthy adults.

*Proposed Priorities:*

This notice contains three proposed priorities. One is proposed as an absolute priority and two are proposed as competitive priorities.

**Proposed Absolute Priority—Programs Designed To Create Quality Physical Education Programs***Background:*

Over the last decade, health and education professionals, as well as States and communities, have been increasingly concerned about changing health and behavior patterns related to physical activity, nutrition, and weight status. While a healthy lifestyle can help prevent a host of serious health outcomes, including heart disease and diabetes, data show that a large percentage of youth are sedentary and neither active enough nor have a healthy diet. Only about 17 percent of high school students meet the current recommendations for physical activity.<sup>1</sup> In a recent study, about one-quarter of high school students reported that they used a computer or played computer or video games more than three hours a day and about 35 percent of high school students reported watching television three or more hours per day on an average school day. Only 21 percent of high school students reported eating five or more fruits or vegetables each day in the previous week.<sup>2</sup> These behaviors have contributed to a rise in overweight and obese youth, with recent studies indicating that 17 percent of 6-11 year-olds and 17.6 percent of 12-19 year-olds are considered obese. Furthermore, 33 percent of 6-11 year olds and 34 percent of 12-19 year olds

<sup>1</sup> Department of Health and Human Services, Office of Disease Prevention and Health Promotion. *2008 Physical Activity Guidelines for Americans*. Washington, DC, 2008. The *2008 Physical Activity Guidelines for Americans* recommends 60 minutes of physical activity per day for children and adolescents, which should include moderate to vigorous aerobic activity, as well as age-appropriate muscle and bone strengthening activities.

<sup>2</sup> Centers for Disease Control and Prevention. Youth Risk Behavior Survey, 2007. Accessed online at <http://www.cdc.gov/healthyyouth>. The question on physical activity asks about doing any kind of physical activity that increased their heart rate and made them breathe hard some of the time for a total of at least 60 minutes per day on five or more of the seven days before the survey. The question on nutritional intake asks students to report if the student ate fruits and vegetables (100 percent fruit juices, fruit, green salad, potatoes [excluding French fries, fried potatoes, or potato chips], carrots, or other vegetables) five or more times per day during the seven days before the survey.

are overweight;<sup>3</sup> these rates have roughly doubled since 1980.<sup>4</sup>

Schools are most likely to have an impact on student physical activity and dietary behaviors when they provide students with a quality physical education program, nutrition instruction and a healthy nutrition environment, and multiple opportunities and settings that promote and practice physical activity and healthy eating.<sup>5</sup> PEP's authorizing statute identifies six program elements that may be included in funded projects, and that, when undertaken together, characterize a quality program in physical education and nutrition education. The six program elements are designed to provide the cognitive, instructional, and experiential components that promote the adoption of lifelong healthy habits, as well as enhanced cooperative and social skills for students, and ongoing professional development for teachers and staff. The program elements are: (1) Fitness education and assessment to help students understand, improve, or maintain their physical well-being; (2) instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every student; (3) development of, and instruction in, cognitive concepts about motor skills and physical fitness that support a lifelong healthy lifestyle; (4) opportunities to develop positive social and cooperative skills through physical activity participation; (5) instruction in healthy eating habits and good nutrition; and (6) opportunities for professional development for teachers of physical education to stay abreast of the latest research, issues, and trends in the field of physical education.

Historically, the Department has required applicants for PEP grants to address at least one of the six elements. Beginning in 2004, we sought to re-focus the program to include efforts that strategically support the promotion of lifelong healthy habits. We have funded six cohorts of grantees under this particular framework and, through our observations, reviews of project reports, work with grantees, and consultation with other Federal agencies and non-governmental partners, have concluded that additional changes are necessary to strengthen the program, better align it

with the latest research and best practices in the field, and fund programs that are most likely to be sustainable following the period of Federal funding.

We believe that requiring applicants to create programs and policies that address element 5, regarding nutrition instruction, plus at least one of the other elements related to physical activity will result in the development and implementation of approaches that go beyond instruction in physical education or fulfillment of physical education equipment needs, which have been the historical foci of PEP-funded projects. A combined focus on both nutrition and physical activity and physical education programming, curricula, and related equipment necessary for implementation, along with changes to related physical activity and nutrition policies, provide the basis for an initiative that goes beyond implementing a specific curriculum or using a particular piece or set of physical education equipment. Instead, this requirement will encourage applicants to consider the range of approaches necessary to promoting healthy habits within two broad categories, instruction in healthy eating and physical activity or physical education, while allowing applicants to design programs that best meet their identified gaps and needs and enhance their identified assets in as comprehensive a manner as possible.

#### *Proposed Absolute Priority:*

Under this proposed priority, an applicant would be required to develop, expand, or improve its physical education program and address its State's physical education standards<sup>6</sup> by undertaking the following activities: (1) Instruction in healthy eating habits and good nutrition and (2) physical fitness activities that must include at least one of the following: (a) Fitness education and assessment to help students understand, improve, or maintain their physical well-being; (b) instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every student; (c) development of, and instruction in, cognitive concepts about motor skills and physical fitness that support a lifelong healthy lifestyle; (d) opportunities to develop positive social and cooperative skills through physical activity participation; or (e) opportunities for professional development for teachers of physical

education to stay abreast of the latest research, issues, and trends in the field of physical education.

#### **Proposed Competitive Preference Priority 1—Collection of Body Mass Index Measurement Background:**

Over the last several years, with increasing attention focused on the childhood obesity epidemic, several States and municipalities have begun using the Body Mass Index (BMI) to create awareness of the extent of weight problems in their State or municipality. Collecting data on BMI can identify the percentages of students in the population who are obese, overweight, normal weight, and underweight. Childhood obesity is associated with cardiovascular disease risk factors, including high blood pressure, high cholesterol, and impaired fasting glucose.<sup>7</sup> Obese young people are more likely than children of normal weight to become overweight or obese adults and, therefore, more at risk for associated health problems during adulthood, including heart disease, type 2 diabetes, stroke, several types of cancer, and osteoarthritis.<sup>8</sup> Additionally, researchers estimate that medical costs of the obesity epidemic may total as much as \$147 billion annually.<sup>9</sup>

Several States and municipalities have started using BMI as an approach to identifying the percentage of youth in the population who are obese, overweight, normal weight, and underweight. These data, in the aggregate, can be used to describe the weight status over time in the student population; monitor progress toward achieving national health objectives<sup>10</sup>; and monitor the effects of school-based physical activity and nutrition policies and programs.

BMI is a tool for assessing weight status that is relatively easy to use and correlates with body fat. The BMI is based on a calculation using weight and height (kg/m<sup>2</sup>). Although the same formula is used for adults, children, and adolescents, weight status for children

<sup>7</sup> Freedman D, Zuguo M, Srinivasan S, Berenson G, Dietz W. Cardiovascular risk factors and excess adiposity among overweight children and adolescents: The Bogalusa Heart Study. *J Pediatr*. 2007;150(1): 12–17.

<sup>8</sup> U.S. Surgeon General. *Overweight and obesity: Health consequences*. Rockville, MD, 2001. Accessed at <http://www.surgeongeneral.gov/topics/obesity/> on October 14, 2009.

<sup>9</sup> Finkelstein E, Trogon J, Cohen J, and Dietz W. Annual medical spending attributable to obesity: Payer- and service-specific estimates. *Health Affairs*. 2009; 28(5): w822–w831.

<sup>10</sup> National health objectives can be found in *Healthy People, 2010*, accessed at [http://www.healthypeople.gov/Document/html/uuh/uuh\\_bw/uuh\\_4.htm#overandobese](http://www.healthypeople.gov/Document/html/uuh/uuh_bw/uuh_4.htm#overandobese) on October 15, 2009.

<sup>3</sup> "Overweight" is defined as at or above the 85th percentile and "obese" is defined as at or above the 95th percentile on BMI-for-age growth charts.

<sup>4</sup> Ogden C, Carroll M, Flegal K. High body mass index for age among US children and adolescents, 2003–2006. *JAMA*. 2008;299(20): 2410–2405.

<sup>5</sup> Institute of Medicine. *Preventing Childhood Obesity: Health in the Balance*. Washington, DC: The National Academies Press, 2005.

<sup>6</sup> States that do not have their own physical education standards may use another State's standards.

and adolescents is determined by plotting BMI by age on a sex-specific growth chart, created by the Centers for Disease Control and Prevention (CDC), and presented as a BMI-for-age percentile (<http://www.cdc.gov/growthcharts>). For children and adolescents, the weight status categories are “underweight” (BMI less than the 5th percentile), “healthy weight” (BMI is greater than the 5th percentile but less than the 85th percentile), “overweight” (BMI is greater than the 85th percentile and less than the 95th percentile) and “obese” (BMI is greater than the 95th percentile). The BMI-for-age percentiles identified by the CDC are the recommended method of reporting size and growth patterns among children in the United States.<sup>11</sup>

As BMI is a measure of weight status at only one point in time, it is important for students, families, and policy-makers to consider trends in BMI data rather than taking action based on one measurement point. For children and teens, BMI is used as a screening tool, not a diagnostic tool, which means that it can suggest that a child may have a weight concern but it is not a tool that will determine that the child’s weight status is a problem.<sup>12</sup> A trained medical care provider would need to perform other follow-up assessments and tests<sup>13</sup> to determine if the student actually has excess body fat or other health risks related to obesity.

To understand a BMI score more accurately, practitioners often also look at other measures, such as assessments of fitness levels, physical activity levels, and nutritional intake. For policy-makers, looking at prevalence and trends in obesity among youth at the school, district, and/or community levels (as measured by the BMI) can create awareness of the overall population’s health and fitness, and provide an impetus to improve policies, practices, and services.

Program planners should carefully consider the issues related to undertaking a BMI assessment program in a school or a school-related setting, and should first define the intent of their assessment program and the desired outcomes they wish to achieve by undertaking BMI assessment.

Program planners should consider how these efforts would be understood and accepted by the community. Planners should also consider how the information would be used in the context of the other required measures for this program (see the REQUIREMENTS section of this notice) and as part of the fitness assessments that applicants may propose in response to this program element in Proposed Absolute Priority 1. When presented with complementary measures of fitness, physical activity, nutritional habits, and behaviors to be addressed through PEP, these measures provide not only a means for assessing the health and fitness of the student population, but also ideas about program and policy components that require improvement and the ability to monitor changes to these indicators over time.

Grantees that receive funds under this priority would be required to provide parents with the choice to have their child opt out of this assessment as part of the development and implementation of their BMI measurement practice, and to inform parents of this choice. Additionally, unless the BMI assessment is permitted or required by State law, local educational agency (LEA) applicants must develop policies in consultation with parents that provide reasonable notice of the applicant’s plan to collect BMI data, in compliance with the Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. 1232h.

Planners should also consider the timing and flow of students into the assessment site to have their BMI measured, how the measurement would be performed, the equipment needed to carry out the assessment, who would perform the assessment, and how data would be calculated, recorded, and protected. These procedures should adhere to the best available scientific practices and procedures.

If program planners intend to provide information to parents about their children, planners should consider if and how they would be able to access follow-up testing or treatment by a health care provider, and might create a referral system for youth who are identified as obese, overweight, or underweight. If the information will be shared with parents, planners should provide a clear and respectful explanation of the BMI results and a list of the appropriate actions. Resources are available to help schools implement these kinds of activities in the safest and most effective way possible, including CDC’s Children’s BMI Tool for Schools, which can be accessed at: [http://](http://www.cdc.gov/healthyweight/assessing/bmi/childrens_bmi/tool_for_schools.html)

[www.cdc.gov/healthyweight/assessing/bmi/childrens\\_bmi/tool\\_for\\_schools.html](http://www.cdc.gov/healthyweight/assessing/bmi/childrens_bmi/tool_for_schools.html).

Proposed Competitive Preference Priority:

We propose giving a competitive preference priority to applicants that agree to implement aggregate BMI data collection, and use it as part of a comprehensive assessment of health and fitness for the purposes of monitoring the weight status of their student population across time. Applicants would be required to sign a Program-Specific Assurance that would commit them to:

(a) Use the CDC’s BMI-for-age growth charts to interpret BMI results (<http://www.cdc.gov/growthcharts>);

(b) Create a plan to develop and implement a protocol that would include parents in the development of their BMI assessment and data collection policies, including a mechanism to allow parents to provide feedback on the policy. Applicants would be required to detail the following required components in their aggregate BMI data collection protocol: The proposed method for measuring BMI, who would perform the BMI assessment (*i.e.*, staff members trained to obtain accurate and reliable height and weight measurements), the frequency of reporting, the planned equipment to be used, methods for calculating the planned sampling frame (if the applicant would use sampling), the policies used to ensure student privacy during measurement, how the data would be secured to protect student confidentiality, who would have access to the data, how long the data will be kept, and what will happen to the data after that time. Applicants that intend to inform parents of their student’s weight status must include plans for notifying parents of that status, and must include their plan for ensuring that resources are available for safe and effective follow-up with trained medical care providers;

(c) Create a plan to notify parents of the BMI assessment and to allow parents to opt out of the BMI assessment and reasonable notification of their choice to opt out. Unless the BMI assessment is permitted or required by State law, LEA applicants would be required to detail their policies for providing reasonable notice of the adoption or continued use of such policies directly to the parents of the students enrolled in the LEA’s schools served by the agency. At a minimum, the LEA would have to provide such notice at least annually, at the beginning of the school year and within a reasonable period of time after any

<sup>11</sup> Krebs NF et al. Assessment of child and adolescent overweight and obesity. *Pediatrics*. 2007;120:S193–S228.

<sup>12</sup> Freedman D, Wang, J, Thornton J, Mei Z, Sopher A, Pierson R, Dietz W, and Horlick M. Classification of Body Mass Index-for-Age Categories Among Children. *Archives of Pediatrics and Adolescent Medicine*. 2009;163(9):805–811.

<sup>13</sup> Additional assessments and tests could include a patient’s medical history, family history, diet, physical activity habits, and blood pressure and laboratory tests, such as cholesterol levels.

substantive change in such policies, pursuant to the Protection of Pupil Rights Amendment, 20 U.S.C. Section 1232h(c)(2)(A); and

(d) De-identify the student information (such as by removing the student's name and any identifying information from the record and assigning a record code<sup>14</sup>), aggregate the BMI data to the school or district level, and make the aggregate data publicly available and easily accessible to the public annually. Applicants would need to describe their plan for the level of reporting they plan to use, depending on the size of the population, such as at the district level or the school level. Applicants would also be required to detail in their application their plan for how these data will be used in coordination with other required data for the program, such as fitness, physical activity, and nutritional intake measures, and how the combination of these measures will be used to improve physical education programming and policy.

On June 18, 1991, 17 Federal Departments and Agencies, including the Department of Education, adopted a common set of regulations known as the Federal Policy for the Protection of Human Subjects or "Common Rule." See 34 CFR Part 97. Applicants that engage in BMI data collection may be subject to the U.S. Department of Education's Protection of Human Subjects regulations if the data are used in research funded by the Federal government or for any future research conducted by an institution that has adopted the Federal policy for all research of that institution. The regulations define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities." 34 CFR 97.102(d). Information on Human Subjects requirements is found at: <http://www.ed.gov/about/offices/list/ocfo/humansub.html>.

<sup>14</sup> LEAs are subject to the Family Educational Rights and Privacy Act and must de-identify education records based on regulations issued by the Department of Education in December, 2008. More information can be found at: <http://www.ed.gov/policy/gen/guid/fpco/pdf/ferparegs.pdf>. CBO applicants should follow all applicable Federal, State, and local privacy laws and regulations regarding the de-identification of personal data.

Applications that do not provide a Program-Specific Assurance signed by an Authorized Representative committing the applicant to completing the tasks above during their project period would not be eligible for competitive preference points.

In implementing this proposed priority, we would encourage applicants to consult with their partners to determine if and how any of the partners could contribute to the data collection, reporting, or potential referral processes.

#### **Proposed Competitive Preference Priority 2—Partnerships Between Applicants and Supporting Community Entities**

##### *Background:*

Most research demonstrates that to effectively change social norms and behaviors, coordinated, multi-component approaches and policies are necessary.<sup>15</sup> As part of a comprehensive approach to encouraging youth to be more physically active and eat healthier foods, schools and communities should have common and consistent policies, practices, and expectations for healthy eating and physical activity and provide the opportunity for healthy lifestyle choices in all settings in which a child spends time, throughout the student's day, including before, during, and after school, as well as on weekends, holidays, and vacations.<sup>16</sup>

This type of community effort requires a sustained commitment from LEAs and schools, local government, community-based organizations (CBOs), the health sector, businesses, parents, and community members. Schools have a critical role to play in teaching students about physical activity, fitness, and healthy choices, and providing opportunities to practice making healthy choices throughout the day. But students spend a significant amount of time outside of school, which makes it important to implement a consistent community approach that reinforces and supports lessons and messages that are taught and learned in schools. For example, CBOs, particularly those CBOs that provide before- or after-school or summer programs, can play an important role in supplementing the skills and concepts that students learn in school. CBOs can also help LEAs target specific populations of students who may be underserved or at higher

risk of becoming overweight or obese, or provide additional expertise in such areas as nutrition instruction.

We have found that CBOs that have received PEP grants function optimally when they work collaboratively with one or more schools in the area served by the project. Grantees that conduct their projects separately from a school's or an LEA's efforts are often less familiar with State standards for physical education and, as a result, struggle to develop projects that help students meet or exceed these standards. Some CBOs also find it challenging to attract students to their programs, maintain the students' attendance at their programs, and deliver services that complement those that schools are already providing. A partnership between a CBO and an LEA or school should help ensure that these challenges will be addressed.

Although some current grantees' communities may be engaged in efforts to improve physical activity and nutrition, these efforts are not always coordinated with the PEP grant, often resulting in disjointed and inconsistent efforts to improve physical activity and nutrition policy and programs in schools and communities. Thus, a more coordinated effort would improve the community's ability to positively affect youth physical activity participation, childhood nutrition, and fitness, and prevent and reduce the trends of overweight and obese youth by fundamentally changing the policies and practices of the settings where children spend their time before, during, and after school.

We also believe that a formal partnership agreement will institutionalize this collaboration and ensure that local leadership is committed to investing in these efforts. Applicants might leverage these formal partnerships to secure the required matching funds for a PEP grant, such as through donated time, expertise, and other resources. Further, partners from public health agencies might also increase applicants' awareness of best practices and research-based approaches in the public health field, as well as connect applicants to other related efforts in the community and to potential funding streams, which could increase the likelihood of the PEP project being sustained after the end of Federal funding.

##### *Proposed Competitive Preference Priority:*

We propose giving a competitive preference priority to an applicant that includes in its application an agreement that details the participation of required partners, as defined in this notice. The agreement would have to include a

<sup>15</sup> Institute of Medicine. *Preventing Childhood Obesity: Health in the Balance*. Washington, DC: The National Academies Press, 2005.

<sup>16</sup> IOM (Institute of Medicine) and National Research Council. 2009. *Local Government Actions to Prevent Childhood Obesity*. Washington, DC: The National Academies Press.

description of: (1) Each partner's roles and responsibilities in the project; (2) if and how each partner will contribute to the project, including any contribution to the local match; (3) an assurance that the application was developed after timely and meaningful consultation between the required parties, as defined in this notice; and (4) a commitment to work together to reach the desired goals and outcomes of the project. The partner agreement would be required to be signed by the Authorized Representative of each of the required partners and by other partners as available and appropriate.

For an LEA applicant, we propose that this partnership agreement must include: (1) The LEA; (2) at least one CBO; (3) a local public health entity, as defined in this notice; (4) the LEA's food service or child nutrition director; and (5) the head of the local government, as defined in this notice.

For a CBO applicant, we propose that the partnership agreement must include: (1) The CBO; (2) a local public health entity, as defined in this notice; (3) a local organization supporting nutrition or healthy eating, as defined in this notice; (4) the head of the local government, as defined in this notice; and (5) the LEA from which the largest number of students expected to participate in the CBO's project attend. If the CBO applicant is a school, such as a parochial or other private school, the applicant would need to describe its school as part of the partnership agreement but would not be required to provide an additional signature from a different LEA or school. A CBO applicant that is a school and serves its own population of students would be required also to include another community CBO as part of its partnership and include the head of that CBO as a signatory on the partnership agreement.

Although partnerships with other parties are required, the eligible applicant would have to retain the administrative and fiscal control of the project.

#### *Types of Priorities:*

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

**Absolute priority:** Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

**Competitive preference priority:** Under a competitive preference priority, we give competitive preference to an

application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

**Invitational priority:** Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

#### *Proposed Requirements:*

##### **Background:**

The Department believes that the following proposed requirements will result in PEP projects that are more likely to have an impact on children's health, fitness levels, and dietary habits.

##### **Proposed Requirements:**

The Assistant Deputy Secretary for Safe and Drug-Free Schools proposes the following requirements for this program. We may apply one or more of these requirements in any year in which this program is in effect.

#### **Proposed Requirement 1—Align Project Goals With Identified Needs Using the School Health Index**

##### **Background:**

In order to ensure that PEP projects meet the needs of the schools and communities they are intended to serve, it is critical that the nutrition and physical education program needs, as well as the policies that support them, be assessed. The CDC's Division of Adolescent and School Health has developed the School Health Index (SHI), a self-assessment and planning tool that schools can use to assess their student health policies and programs and their "school health environment." The SHI includes eight self-assessment modules: (1) School Health and Safety Policies and Environment; (2) Health Education; (3) Physical Education and Other Physical Activity Programs; (4) Nutrition Services; (5) Health Services; (6) Counseling, Psychological, and Social Services; (7) Health Promotion for Staff; and (8) Family and Community Involvement. The SHI enables schools to develop an action plan for improving student health, which can be incorporated into the School Health Improvement Plan.

CDC has developed two forms of the SHI, one for elementary schools and one for middle and high schools. Although much of the content is identical on each, there are some differences that reflect the developmental differences between elementary school students and middle and high school students.

Completing the SHI allows a school to assess its health policies and practices and to compare those policies and practices with national standards and recommendations. The CDC estimates that undertaking the Physical Education and Other Physical Activity Programs and Nutrition Services SHI modules will take approximately one to three hours. For more information about the SHI, please see <http://www.cdc.gov/healthyyouth/SHI>.

In the context of PEP, we believe that the SHI will provide applicants with a framework for assessing their strengths and weaknesses, which can then be used to design programs based on identified gaps and plans to address these gaps. We have found that many PEP applicants have not undertaken this type of self-assessment prior to submitting their grant applications and, not having done so, have created programs and policies that are not responsive to their site's needs or aligned with best practices in the field.

Because the SHI must be done at the school-building level, CBOs cannot undertake the SHI without the support and participation of a school or LEA. Therefore, we suggest that CBO applicants collaborate with an identified school or LEA partner to complete the physical activity and nutrition questions in modules 1–4 of the SHI.

To meet this requirement, CBO applicants that do not collaborate with an LEA or school may propose and use a local needs assessment tool that analyzes the physical activity and nutrition environments at the community level and, ideally, at the CBO site itself. The CBO applicant would need to specify the local needs assessment tool used, as well as the results of the assessment. The applicant's program must be designed to address the needs and gaps identified through the needs assessment.

##### **Proposed Requirement:**

We propose that applicants be required to complete the physical activity and nutrition questions in Modules 1–4 of the CDC's SHI self-assessment tool and to develop project goals and plans that address the identified needs. Modules 1–4 are School Health and Safety Policies and Environment, Health Education, Physical Activity and Other Physical Activity Programs, and Nutrition Services. The applicant would use the SHI self-assessment to develop a School Health Improvement Plan focused on improving these issues, and design an initiative that addresses their identified gaps and weaknesses. Applicants would be required to include their Overall Score Card for the questions answered

in modules 1–4 in their application, and correlate their School Health Improvement Plan to their project design. Grantees would also be required to complete the same modules of the SHI at the end of the project period and submit the Overall Score Card from the second assessment in their final reports to demonstrate SHI completion and program improvement as a result of PEP funding.

If a CBO applicant (unless the CBO is a school) is in a partner agreement with an LEA or school, it would be required to collaborate with its partner or partners to complete modules 1–4 of the SHI.

Alternatively, if the CBO has not identified a school or LEA partner, the CBO would be required to use an alternative needs assessment tool to assess the nutrition and physical activity environment in the community for children. CBO applicants would be required to include their overall findings from the community needs assessment and correlate their findings with their project design. Grantees would also be required to complete the same needs assessment at the end of their project and submit their findings in their final reports to demonstrate the completion of the assessment and program involvement as a result of PEP funding.

### **Proposed Requirement 2—Nutrition- and Physical Activity-Related Policies**

#### *Background:*

In recent years, research has shown that interventions to change behaviors and develop healthy habits, including physical activity and healthy eating, cannot rely on instruction alone.<sup>17</sup> Although interventions that focus on a single element of PEP may produce positive behavior changes, they typically result in smaller effects than those produced by comprehensive, multi-sector interventions that include changes to programs and curricula and create or enhance policies encouraging physical activity and healthy eating choices.<sup>18</sup> Applicants can identify physical activity and nutrition policies to address using their State's standards for physical education and the results from their SHI assessment.

Research also shows that policy interventions and environmental changes can promote desirable behaviors and discourage negative behaviors.<sup>19 20</sup> To encourage students to eat more healthy foods in and out of

school, policies might include those governing the sale of “competitive foods”<sup>21</sup> at school, and food placement and pricing in cafeterias; policies on vending machines and on food sold as fundraisers; developing partnerships with farms or farmers' markets; adopting the recent Institute of Medicine recommendations for school meals that include more fruits and vegetables, whole grains, and low-fat dairy products;<sup>22</sup> or creating school or community gardens.

Physical activity-related policy improvements that might enhance the applicant's programs include, but are not limited to: staffing policies that enable a physical educator to coordinate, plan, and direct the comprehensive program related to all physical activity efforts in the school, including those related to policy; integrating physical activity into the classroom to foster learning and increase children's physical activity; removing barriers to enable children to walk or bike to school or in the community; encouraging time for recess; developing and implementing joint-use agreements for use of facilities or equipment between schools and communities or community groups; providing supervision of play areas during out-of-school time; altering bus schedules to facilitate after-school program participation; establishing time requirements for physical education; requiring certification and professional development for physical education teachers; setting class size limits; and reviewing the use of waivers that allow students to opt out of physical education class.

#### *Proposed Requirement:*

We propose that grantees be required to develop, update, or enhance physical activity policies and food- and nutrition-related policies that promote healthy eating and physical activity throughout students' everyday lives, as part of their PEP projects. Applicants would describe in their application their current policy framework, areas of focus, and the planned process for

policy development, implementation, review, and monitoring. Grantees would be required to detail at the end of their project period in their final reports the physical activity and nutrition policies selected and how the policies improved through the course of the project.

Applicants would be required to sign a Program-Specific Assurance that commits them to developing, updating, or enhancing these policies during the project period. Applicants that do not submit such a Program-Specific Assurance signed by the applicant's Authorized Representative would be ineligible for the competition.

### **Proposed Requirement 3—Linkage With Local Wellness Policies**

#### *Background:*

The local wellness policy provision of the Child Nutrition Act of 2004 (Pub. L. 108–265) requires that each LEA participating in a program authorized by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 *et seq.*) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 *et seq.*) have a local wellness policy beginning in school year 2006–2007.

Under these provisions, a local wellness policy, at a minimum, includes goals for nutrition education, physical activity, and other school-based activities designed to promote student wellness; nutrition guidelines for all foods available on each school campus; guidelines for reimbursable school meals that are no less restrictive than the U.S. Department of Agriculture (USDA) regulations and guidelines; and a plan for measuring implementation, including designation of one or more persons at the LEA or school level charged with operational responsibility for ensuring that the school meets the local wellness policies. In addition, parents, students, and various other “stakeholders” must be involved in the development of the local wellness policy.

#### *Proposed Requirement:*

We propose that applicants that are participating in a program authorized by the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966 must describe in their applications their school district's established local wellness policy and how the proposed PEP project will align with and support, complement, and enhance the implementation of the applicant's local wellness policy. The LEA's local wellness policy should address all requirements in the Child Nutrition Act of 2004.

<sup>19</sup> Peterson D, Zeger S, Remington P, Anderson P. The effect of state cigarette tax increases on cigarette sales, 1985–1988. *American Journal of Public Health.* 82(1): 94–96.

<sup>20</sup> French S, Story M, Breitlow K, Baxter J, Hannan P, Snyder M. Pricing and promotion effects on low-fat vending and snack purchases: The CHIPS study. *American Journal of Public Health.* 91(1): 112–117.

<sup>21</sup> “Competitive foods” are defined as any foods and beverages sold at a school separately from the US Department of Agriculture's school meal programs.

<sup>22</sup> Institute of Medicine. 2010. *School Meals: Building Blocks for Healthy Children.* Washington, DC: The National Academies Press.

<sup>17</sup> Institute of Medicine. *Preventing Childhood Obesity: Health in the Balance.* Washington, DC: The National Academies Press, 2005.

<sup>18</sup> *Ibid.*

We propose that CBO applicants describe in their applications how their proposed projects will enhance or support the intent of the local wellness policies of their LEA partner(s), if they are working in a partnership.

If an applicant or a member of its partnership does not participate in the school lunch program authorized by the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, it would not necessarily have a local wellness policy and, thus, would not be required to meet this requirement or adopt a local wellness policy. However, we would encourage such applicants to develop and adopt a local wellness policy, consistent with the provisions in the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966 in conjunction with its PEP project.

Applicants would be required to sign a Program-Specific Assurance that commits them to align their PEP project with the district's Local Wellness Policy, if applicable. Applicants that do not submit a Program Specific Assurance signed by the applicant's Authorized Representative would be ineligible for the competition.

#### **Proposed Requirement 4—Linkages With Federal, State, and Local Initiatives**

##### *Background:*

We believe that projects should conduct their activities in a manner that is coordinated, to the extent possible, with other, similar ongoing or planned State or local health and wellness initiatives.

For example, PEP projects, through their support of physical activity and nutrition instruction initiatives, complement the CDC's Coordinated School Health framework. This framework is a systemic model that integrates the basic, minimum components necessary for promoting the health and safety of students in schools. There are eight components of the Coordinated School Health Program: (1) Health Education; (2) Physical Education; (3) Health Services; (4) Nutrition Services; (5) Counseling and Psychological Services; (6) Healthy School Environments; (7) Health Promotion for Staff; and (8) Family and Community Involvement.

PEP projects could also complement the USDA's Team Nutrition initiative, which provides training and technical assistance for food service professionals, nutrition instruction for children and their caregivers, and school and community support for creating healthy school environments that are conducive to healthy eating and physical activity.

More information on Team Nutrition can be found at: <http://www.teamnutrition.usda.gov>.

The U.S. Department of Health and Human Services (HHS) will also be providing funds to local public health departments to create community-level interventions to address obesity trends in both adults and children. This initiative funded under the American Recovery and Reinvestment Act, specifically the "Recovery Act Communities Putting Prevention to Work—Community Initiative," focuses on developing and promoting partnerships, programmatic support, community mentoring, and evaluation to achieve the following prevention outcomes: (1) Increased levels of physical activity; (2) improved nutrition; (3) decreased overweight/obesity prevalence; (4) decreased smoking prevalence and decreasing teen smoking initiation; and (5) decreased exposure to second-hand smoke. More information on this program can be found at: <http://www.cdc.gov/nccdphp/recovery/>. Applications for grants under this HHS program were due December 1, 2009, but grantees are not likely to be announced until after PEP's application period would close. As such, PEP applicants would only have to agree to coordinate efforts funded under this HHS program with activities funded by PEP should their communities receive both grants.

Many other Federal, State, and local initiatives also work to promote healthy nutrition and physical activity and, if applicable, should be coordinated with PEP project efforts. These other programs include, but are not limited to, Alliance for a Healthier Generation (<http://www.healthiergeneration.org/>), Farm-to-School initiatives (<http://www.farmtoschool.org/>), the YMCA's Pioneering Healthier Communities (<http://www.ymca.net/activateamerica/>), Action for Healthy Kids State or local teams (<http://www.actionforhealthykids.org/>), and USDA's HealthierUS School Challenge (<http://www.fns.usda.gov/tn/healthierus/index.html>).

##### *Proposed Requirement:*

We propose that if an applicant is implementing the CDC's Coordinated School Health program, it be required to coordinate project activities with that initiative and describe in its application how the proposed PEP project will be coordinated and integrated with the program.

We propose that if an applicant receives funding under the USDA's Team Nutrition initiative (Team Nutrition Training Grants), the applicant must describe in its

application how the proposed PEP project supports the efforts of this initiative.

We propose that an applicant for a PEP project in a community that receives a grant under the Recovery Act Communities Putting Prevention to Work—Community Initiative must agree to coordinate its PEP project efforts with those under the Recovery Act Communities Putting Prevention to Work—Community Initiative.

We propose that applicants and PEP-funding projects must complement, rather than duplicate, existing, ongoing or new efforts whose goals and objectives are to promote physical activity and healthy eating or help students meet their State standards for physical education.

Applicants would be required to sign a Program-Specific Assurance that commits them to align their PEP project with the Coordinated School Health program, Team Nutrition Training Grant, Recovery Act Communities Putting Prevention to Work—Community Initiative, or any other similar Federal, State, or local initiatives. Applicants that do not submit a Program Specific Assurance signed by the applicant's Authorized Representative would be ineligible for the competition.

#### **Proposed Requirement 5—Updates to Physical Education and Nutrition Instruction Curricula**

##### *Background:*

Having a strong and appropriate curriculum is critical to ensuring that students develop and practice new skills. Historically, many PEP grantees purchased or designed new curricula before they had fully assessed the needs of their population or the capacity of their staff to implement that curriculum. In our experience, most PEP grantees do not implement a systematic, sequential nutrition instruction curriculum, but, rather, rely on one-time nutrition modules to provide instruction on healthy eating.

The CDC's Physical Education Curriculum Analysis Tool (PECAT) helps LEAs and others conduct a clear, complete, and consistent analysis of written physical education curricula, based upon national physical education standards. This free tool helps LEAs analyze written physical education curricula and can serve as a guide in developing or identifying a curriculum aligned with the LEA's goals and objectives for physical education programs that help them make progress toward meeting State standards for physical education.

The CDC's Health Education Curriculum Analysis Tool (HECAT) is a

similar free tool, comparable to the PECAT, used to assess health education curricula, and is intended to help LEAs, schools, and others conduct a clear, complete, and consistent analysis of health education curricula based on the National Health Education Standards and CDC's Characteristics of Effective Health Education Curricula. The HECAT results can help LEAs or CBOs select or develop appropriate and effective health education curricula and improve the delivery of health education. The HECAT can be customized to meet local needs and conform to the State or LEA curriculum requirements. The HECAT's healthy eating module can be used to determine the extent to which curricula are likely to enable students to master the essential concepts and skills that promote healthy eating.

*Proposed Requirement:*

We propose that applicants that plan to use grant-related funds, including Federal and non-Federal matching funds, to create, update, or enhance their physical education or nutrition education curricula be required to use the Physical Education Curriculum Analysis Tool (PECAT) and submit their overall PECAT scorecard, and the curriculum improvement plan from PECAT. We also propose that applicants that plan to use grant-related funds, including Federal and non-Federal matching funds to create, update, or enhance their nutrition instruction in health education be required to complete the healthy eating module of the Health Education Curriculum Analysis Tool (HECAT). Applicants must use the curriculum improvement plan from the PECAT to identify curricular changes to be addressed during the funding period. Applicants must also describe how the HECAT assessment would be used to guide nutrition instruction curricular changes. If an applicant is not proposing to use grant-related funds for physical education or nutrition instruction curricula, it would not need to use these tools.

**Proposed Requirement 6—Equipment Purchases**

*Background:*

We have found that some PEP grantees have used a significant portion of their PEP funds to purchase physical education equipment but that the use of this equipment is not always tied to a quality physical education program. Although equipment purchases may be essential to the project, these purchases alone do not constitute a comprehensive program. We have also found that PEP grantees have not always tied the use of

that equipment to their physical education curriculum or physical education State standards. Because the needs of students or staff may not have been considered before equipment was purchased, we have found that equipment purchased under this program did not always complement ongoing instructional efforts, was not part of a sustainable program, and was sometimes used neither throughout the duration of the PEP program nor after the grant period ended.

*Proposed Requirement:*

We propose that purchases of equipment with PEP funds or related to grant activities (including equipment purchased with funds offered to meet the program's matching requirement) must be aligned with the curricular components of the applicant's physical education and nutrition program. Applicants must commit to aligning the students' use of the equipment with PEP elements applicable to their projects, identified in priority 1, and any applicable curricula by signing a Program Specific Assurance. Applicants that do not submit a Program Specific Assurance signed by the applicant's Authorized Representative would be ineligible for the competition.

**Proposed Requirement 7—Increasing Transparency and Accountability**

*Background:*

Another critical component to program success is ensuring that projects are meeting their desired goals by increasing "transparency" and accountability to parents, students, policy-makers, and the community. Regularly sharing information with parents about the work of the grantee would help them understand and reinforce lessons learned before, during, and after school, and would encourage students to make healthy choices.

Sharing information with local policy-makers should result in increased accountability and help policy-makers understand the challenges children face in making healthy choices. This increased level of accountability, in turn, would encourage local policy-makers to invest in promising programs and make budget and policy decisions that would complement, support, and enhance each project's efforts.

Program information provided to the community would include program-related measures related to the changes made by the LEAs or CBOs and could potentially be compared to those made in other communities. Additionally, reports to parents of students under 18 years old would include information on the progress of their child on measures

related to that child's fitness and nutrition.

*Proposed Requirement:*

We propose that grantees create or use existing reporting mechanisms to provide information on students' progress, in the aggregate, on the key program indicators, as described in this notice and required under the Government Performance and Results Act, as well as on any unique project-level measures proposed in the application. Grantees that are educational agencies or institutions would be subject to applicable Federal, State, and local privacy provisions, including the Family Educational Rights and Privacy Act—a law that generally prohibits the non-consensual disclosure of personally identifiable information in a student's education record. All grantees must comply with applicable Federal, State, and local privacy provisions. The aggregate-level information should be easily accessible by the public, such as posted on the grantee's or a partner's Web site. Applicants would be required to describe in their application the planned method for reporting.

Applicants would be required to commit to reporting information to the public, including parents of students under 18 years old, by signing a Program Specific Assurance. Applicants that do not submit a Program Specific Assurance signed by the applicant's Authorized Representative would be ineligible for the competition.

**Proposed Requirement 8—Participation in a National Evaluation**

*Background:*

We have funded nine cohorts under the PEP program but have not yet undertaken a national evaluation to assess how the program has been implemented across sites. In 2008, the Department initiated a national evaluation effort to assess the PEP's processes and outcomes. The evaluation will use the grantees funded in FY 2010 for a national evaluation, and will follow this cohort through at least two years of implementation. We continue to collaborate with the contractor to identify an appropriate study design, which will be developed based on the final priorities and design of the FY 2010 PEP competition.

*Proposed Requirement:*

The applicant must provide documentation of its commitment to participate in the U.S. Department of Education's evaluation. An LEA applicant must include a letter from the research office or research board approving its participation in the evaluation (if approval is needed), and



a letter from the Authorized Representative agreeing to participate in the evaluation.

### **Proposed Requirement 9—Required Performance Measures and Data Collection Methodology**

#### *Background:*

Since 2006, PEP grantees have been required to report on two performance measures, established under the Government Performance and Results Act (GPRA). The PEP GPRA measures have been: (1) The percentage of elementary school students who engage in 150 minutes of moderate to vigorous physical activity per week; and (2) The percentage of middle and/or high school students who engage in 225 minutes of moderate to vigorous physical activity per week.

Although these GPRA measures are a marked improvement from past GPRA measures under this program, they are not consistent with the physical activity guidelines that recommend 60 minutes of daily physical activity for children and adolescents.<sup>23</sup> In addition, we have also found that grantees collect and report their data in a variety of ways, which makes data aggregation and comparability across and between cohorts difficult.

The proposed changes to the PEP program, as described in this notice, would require a broader set of indicators to reflect the full range of activities to be undertaken. Therefore, we propose new GPRA measures that would provide comprehensive data on the following: 1. Physical activity levels; 2. Fitness levels; and 3. Nutritional habits of students involved in the PEP program. The proposed measures would require that districts aggregate data at the district and school level to facilitate program evaluation, rather than the assessment of individual students.

In addition to proposing new GPRA performance measures, this notice proposes a standard data collection methodology for each new proposed GPRA measure. The data collection methodologies proposed here are considered valid by researchers in the fields of physical activity and nutrition.

The first new GPRA measure is the extent to which grantees increase the number of students who are physically active for at least 60 minutes a day. The proposed methods for assessing this proposed GPRA measure are pedometry for students in grades K–12 and an additional self-report questionnaire for

students in grades 5–12. Students would wear pedometers all day for four consecutive days (K–6), and eight consecutive days for students in 7th–12th grades.<sup>24</sup> One of the measurement days must be a weekend day. This data collection methodology is a valid and reliable protocol for assessing children's physical activity throughout the day, and has been used for many years in many settings with large numbers of students.<sup>25 26 27</sup> Using pedometers would provide the number of steps students accumulate during the day and the number of minutes of students' activity during the day, using specific formulas to convert steps counts into minutes of physical activity. In addition, students in grades 5–12 would complete the three-day physical activity recall. This self-report would ask students to evaluate their activity based on each 30-minute period between 7:00 a.m. and 10:30 p.m. based on activity type, intensity, and length of time. A self-report measure is a reliable, cost-effective means of gathering information from participants in this age range and provides important qualitative information that can be used to inform or modify the physical activity program.

The second proposed GPRA performance measure is student fitness levels. We propose that grantees measure fitness levels by assessing a student's cardiorespiratory or aerobic capacity fitness using the 20-meter shuttle run. Specifically, grantees would assess the number of students in middle and high school who achieve age-appropriate cardiovascular fitness levels using the 20-meter shuttle run. Researchers have determined that this type of assessment reliably measures a student's cardiovascular fitness, a key health and fitness measure.

<sup>24</sup> Students will be instructed on how to wear the pedometer and will be asked to place the pedometer on in the morning and remove the pedometer in the evening, during bathing/showering, or when they are swimming. Students can be introduced to pedometers and provided an orientation to pedometers during physical education. This phase exposes them to how pedometers work, allows them to explore moving with a pedometer, provides them the opportunity to put the pedometer on, and allows the PE teacher or physical activity leader to emphasize that pedometers are like any PE equipment that must be returned.

<sup>25</sup> Craig C, Tudor-Locke C, Cragg S, Cameron C. Process and treatment of pedometer data collection for youth: The Canadian Physical Activity Levels among Youth Study. *Med. Sci. Sports Exerc.* 2010; 42(3): 430–435.

<sup>26</sup> Tudor-Locke C, Lee S, Morgan C, Beighle A, Pangrazi R. Children's pedometer-determined physical activity during the segmented school day. *Med. Sci. Sports Exerc.* 2006; 38(10): 1732–1738.

<sup>27</sup> LeMasurier G, Beighle A, Corbin C, Barst P, Morgan C, Pangrazi R, Wilde B, Vincent S. Pedometer-determined physical activity levels of youth. *Journal of Physical Activity and Health.* 2005; 2: 159–168.

The third proposed GPRA measure would focus on students' nutritional habits by assessing daily fruit and vegetable consumption. This measure would not only reflect changes in students' behaviors and their internalization of lessons learned, but potentially also changes to the offerings available to students as a result of the PEP program's focus on changes to nutrition policies.

We propose that grantees assess nutritional habits for high school students by administering five designated fruit and vegetable questions from the Youth Risk Behavior Survey.<sup>28</sup> We are seeking comment on how grantees could accurately assess nutritional habits of elementary and middle school students.

We propose that all grantees use the methodologies described so that we can collect consistent data from all grantees about program success and improve the quality of the PEP program evaluation. In addition, Department staff would be more easily able to provide technical assistance to grantees on the proposed data collection methodologies.

Many districts are already using these indicators and methodologies. If LEAs or communities are using the methodologies described, they may use their existing systems to capture and report on these indicators for their proposed PEP project.

#### *Proposed Requirement:*

Grantees would be required to collect and report data on three GPRA measures using uniform data collection methods. Measure one would assess physical activity levels: The number of students that engage in 60 minutes of daily physical activity. Grantees would be required to use pedometers for students in grades K–12 and an additional 3-Day Physical Activity Recall (3DPAR) instrument to collect data on students in grades 5–12.

Measure two would focus on student fitness levels: The number of students who achieve age-appropriate cardiovascular fitness levels. Grantees would be required to use the 20-meter shuttle run to assess cardiovascular fitness in middle and high school students.

Measure three would require grantees to measure the percentage of students

<sup>23</sup> Department of Health and Human Services, Office of Disease Prevention and Health Promotion. 2008 *Physical Activity Guidelines for Americans*. Washington, DC, 2008.

<sup>28</sup> The Centers for Disease Control and Prevention, Youth Risk Behavior Survey (YRBS). More information on the YRBS can be found at <http://www.cdc.gov/healthyyouth>.

served by the grant who consumed fruit two or more times per day and vegetables three or more times per day. Programs serving high school students would be required to use the nutrition-related questions from the Youth Risk Behavior Survey to determine the number of students who meet these goals. We request comment on how grantees serving elementary and/or middle students might assess nutritional intake by, for example, using a set of questions similar to those in the Youth Risk Behavior Survey, to assess nutritional intake of these students. Depending on the comments received, we may recommend or require a specific methodology to be used with elementary and middle school students to assess nutritional intake for these students.

For each measure, grantees would be required to collect and aggregate data from four discrete data collection periods throughout each year. During the first year, grantees would have an additional data collection period prior to program implementation to collect baseline data.

*Proposed Definitions:*

*Background:*

We are proposing the following definitions to describe the specific and appropriate partners whose participation would be most likely to result in enhanced program implementation and sustainability and that applicants will designate in their applications.

*Proposed Definitions:*

The Assistant Deputy Secretary for Safe and Drug-Free Schools proposes the following definition for this program.

We may apply one or more of these definitions in any year in which this program is in effect.

*Organization supporting nutrition or healthy eating* means a local public or private non-profit school, health-related professional organization, or local business that has demonstrated interest and efforts in promoting student health or nutrition. This term would include, but not be limited to LEAs (particularly an LEA's school food or child nutrition director), grocery stores, supermarkets, restaurants, corner stores, farmers' markets, farms, other private businesses, hospitals, institutions of higher education, Cooperative Extension Service and 4H Clubs, and community gardening organizations, when such entities have demonstrated a clear intent to promote student health and nutrition or have made tangible efforts to do so. This definition would not include representatives from trade associations or representatives from any organization

representing any producers or marketers of food or beverage product(s).

*Head of local government* means the party responsible for the civic functioning of the county, city, town, or municipality and includes, but is not limited to, the mayor, city manager, or county executive.

*Local public health entity* means an administrative or service unit of local or State government concerned with health and carrying some responsibility for the health of a jurisdiction smaller than the State (except that for Rhode Island and Hawaii, because these States' health departments operate on behalf of local public health and have no sub-State units, the definition would apply to the State health department).

*Final Priorities, Requirements, and Definitions:*

We will announce the final priorities, requirements, and definitions in a notice in the **Federal Register**. We will determine the final priorities, requirements, and definitions after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

**Note:** This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities, requirements, and definitions, we invite applications through a notice in the **Federal Register**.

*Executive Order 12866:* This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed priorities, requirements, and definitions justify the costs.

We have determined, also, that this proposed regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

**Discussion of Costs and Benefits:** The potential costs associated with the proposed priorities and requirements are minimal while the potential benefits are significant.

Grantees may anticipate costs in developing their partnerships and time spent in developing infrastructure for supporting integrated, comprehensive programming and policies, and building data and accountability systems and processes. Additional costs associated with developing a structure and system for conducting and analyzing BMI include identifying staff who can conduct the assessment, creating and implementing processes, and identifying methods for dissemination.

The benefits include creating a comprehensive, coordinated program that is likely to be sustained after the end of the project period. Creating and leveraging community partners will allow grantees to amplify their project efforts and to increase the likelihood that the activities will become institutionalized. Grantees and the Department will also benefit from the improved focus on outcomes and accountability by uniformly tracking student-level indicators over time.

*Regulatory Flexibility Act Certification*

The Secretary certifies that this proposed regulatory action will not have a significant economic impact on a substantial number of small entities. The small entities that this proposed regulatory action will affect are small LEAs or nonprofit organizations applying for and receiving funds under this program. The Secretary believes that the costs imposed on applicants by the proposed priorities, requirements, and definitions would be limited to paperwork burden related to preparing an application and that the benefits of implementing these proposals would outweigh any costs incurred by applicants.

Participation in this program is voluntary. For this reason, the proposed priorities, requirements, and definitions would impose no burden on small entities in general. Eligible applicants would determine whether to apply for funds, and have the opportunity to weigh the requirements for preparing applications, and any associated costs, against the likelihood of receiving funding and the requirements for implementing projects under the program. Eligible applicants most likely would apply only if they determine that the likely benefits exceed the costs of preparing an application. The likely benefits include the potential receipt of a grant as well as other benefits that may accrue to an entity through its development of an application, such as the use of that application to spur improvement in physical education planning without additional Federal funding.

The U.S. Small Business Administration Size Standards defines as "small entities" for-profit or nonprofit institutions with total annual revenue below \$7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000. The Urban Institute's National Center for Charitable Statistics reported that of 203,635 nonprofit organizations that had an educational mission and reported revenue to the IRS by July 2009, 200,342 (or about 98 percent) had revenues of less than \$5 million. In addition, there are 12,484 LEAs in the country that meet the definition of small entity. However, given program history, the Secretary believes that only a small number of these entities would be interested in applying for funds under this program, thus reducing the likelihood that the proposals contained in this notice would have a significant economic impact on small entities.

Further, the proposed action may help small entities determine whether they have the interest, need, or capacity to implement activities under the program and, thus, prevent small entities that do not have such an interest, need, and capacity from absorbing the burden of applying.

This proposed regulatory action would not have a significant economic impact on small entities once they receive a grant because they would be able to meet the costs of compliance using the funds provided under this program and with any funds they might obtain from external parties to fulfill the matching requirements of the program.

The Secretary invites comments from small nonprofit organizations and small LEAs as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, requests evidence to support that belief.

*Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large

print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*Electronic Access to This Document:* You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Dated: March 11, 2010.

**Kevin Jennings,**

*Assistant Deputy Secretary for Safe and Drug-Free Schools.*

[FR Doc. 2010-5736 Filed 3-15-10; 8:45 am]

**BILLING CODE 4000-01-P**

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9124-3]

### FY2010 Supplemental Funding for Brownfields Revolving Loan Fund (RLF) Grantees

#### *Correction*

In notice document 2010-4965 beginning on page 10793 in the issue of Tuesday, March 9, 2010, make the following correction:

On page 10793, in the second column, under **SUMMARY**, in the second paragraph, in the sixth line "insert date 30 days from date of publication" should read "April 8, 2010".

[FR Doc. C1-2010-4965 Filed 3-15-10; 8:45 am]

**BILLING CODE 1505-01-D**

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## DEPARTMENT OF ENERGY

### International Energy Agency Meetings

**AGENCY:** Department of Energy.

**ACTION:** Notice of meetings.

**SUMMARY:** The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on March 23, 2010, at the headquarters of the IEA in Paris, France, in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market

on March 23, and on March 24 in connection with a meeting of the SEQ on March 24.

**DATES:** March 23-24, 2010.

**ADDRESSES:** 9, rue de la Fédération, Paris, France.

**FOR FURTHER INFORMATION CONTACT:** Diana D. Clark, Assistant General for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202-586-3417.

**SUPPLEMENTARY INFORMATION:** In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meeting is provided:

Meetings of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on March 23, 2010, beginning at 9:30 a.m. and on March 24 beginning at 9:30 a.m. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) on March 23 beginning at 9:30 a.m. at the same location, and at a meeting of the SEQ on March 24 beginning at 9:30 a.m. The IAB will also hold a preparatory meeting among company representatives at the same location at 8:30 a.m. on March 24. The agenda for this preparatory meeting is to review the agenda for the SEQ meeting commencing at 9:30 a.m. on March 24 and to discuss the possibility of disbanding the Industry Supply Advisory Group (ISAG).

The agenda of the joint SEQ/SOM meeting on March 23 is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

1. Adoption of the Agenda.
2. The 2011-2012 Program of Work for the SOM and SEQ.
3. The Current Oil Market Situation.
4. Preparation for the International Energy Forum Meeting (Cancun, Mexico).
5. Update on the Gas Market.
6. Reports on Workshops Held Abroad.
  - Workshop on Price Formation (Tokyo, February 2010)
  - Global Oil and Gas Market Dynamics and Outlook (Beijing, October 2009)
  - Global Oil Markets and Security (New Delhi, October 2009)
7. Report on Study on Fuel Switching.
8. Report on Study on Natural Gas Liquids.